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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/034,336 03/04/98 AGA

H AGA-6

001444 HM12/0124  
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EXAMINER

MORAN, M

ART UNIT

PAPER NUMBER

1631

DATE MAILED:

01/24/01

Please find below and/or attached an Office communication concerning this application or  
proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/034,336

Applicant(s)

AGA ET AL.

Examiner

Marjorie Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5,6,9,10 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5,6,9,10,27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

All rejections and objections not repeated below are hereby withdrawn.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title is currently directed to an agent whereas the instant claims are directed to a method.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 28 is newly rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a **NEW MATTER** rejection.

Claim 28, entered in the amendment filed 6/30/99 recites an inhibitory agent comprising cyclodextran. Neither the originally filed claims or specification provides support for cyclodextran. The originally filed specification, on pages 10 and 28,

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provides support for cyclodextrin in an inhibitory agent (see especially Example A-5), but does not recite cyclodextran anywhere. It is noted that cyclodextrin and cyclodextran are names for different chemical entities wherein neither the names nor the chemical entities themselves are used interchangeably in the art, therefore a teaching for cyclodextrin is NOT considered equivalent to a teaching of cyclodextran, and vice versa. The originally filed claims do not recite cyclodextrin or cyclodextran. For these reason, claim 28 is rejected as containing new matter.

***Claim Rejections - 35 USC § 103***

Claims 5-6, 9-10, 27, and 29-30 are again rejected, as previously set forth in the office action of 8/1/00, under 35 U.S.C. 103(a) as being unpatentable over MARUTA *et al.* (A), as supported by CARDONA (F).

Applicant's arguments filed 10/31/00 have been fully considered but they are not persuasive. Applicant argues that none of the prior art teaches a combination of trehalose and pullulan in a method of inhibiting the decrease of naturally-occurring active-oxygen-eliminating activity. In response, the examiner maintains that MARUTA makes obvious a method for stabilizing antioxidants (i.e. inhibiting the decrease of naturally-occurring active-oxygen-eliminating activity) by adding trehalose to a plant in juicy form in an aqueous system, as previously set forth. MARUTA further teaches that pullulan can be added to his compositions comprising plant substances with antioxidants and trehalose (col. 32, lines 44-60), as previously set forth in the office action of 9/14/99. MARUTA teaches that both trehalose and pullulan can be "kneaded"

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with plant materials in an aqueous system (col. 33, lines 18-25). MARUTA teaches that his trehalose and pullulan are mixed to homogeneity before addition to the aqueous plant system (tea and water), and the examiner interprets "kneading" to be mixing which results in a homogeneous mixture, therefore the examiner maintains that MARUTA and CARDONA teach and/or make obvious all of the limitations of the claims, and the rejection is maintained.

### ***Conclusion***

Claims 5-6, 9-10, and 27-30 are rejected. Claim 28, which recites cyclodextran, appears to be free of the prior art.

The prior art made of record and not relied upon which is considered pertinent to applicant's disclosure is SOEDA *et al.* (US 5,518,742), who teaches that fillers such as dextrin and cyclodextrin can be added to foods to give characteristic properties to the prepared foods (col. 4, line 59-col. 5, line 7). It is also noted that MARUTA teaches that dextrin may be used as a filler in the food compositions of his method (col. 12, lines 35-44).

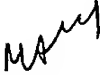
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marjorie A. Moran whose telephone number is (703) 305-2363. The examiner can normally be reached on Monday to Friday, 7:30 am to 4 pm EST.

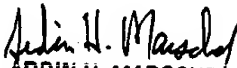
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (703) 308-4028. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Patent Analyst, Tina Plunkett, whose telephone number is (703) 305-3524.

  
Marjorie A. Moran  
January 16, 2001

  
ARDIN H. MARSCHEL  
PRIMARY EXAMINER